

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 455A.6, the Environmental Protection Commission amends Chapter 1, "Operation of Environmental Protection Commission," Iowa Administrative Code.

The amendment modifies the voting requirements for the Commission. Under the amendment, for official action by the Commission the requisite number of Commissioners varies depending on the number of Commissioners currently appointed by the Governor. The amendment provides that four votes are sufficient to take action when there are only seven appointed members.

From late November 2007 until very recently, the Commission has had only seven appointed members from a statutory total of nine members. Because of the number of votes required to take action, these two vacancies have resulted in delayed Agency action, gridlock, and stalemate, with the minority at times deciding an issue. The Commission wishes to adopt an amendment to provide that four votes are sufficient to take action when there are only seven appointed members. This amendment is authorized by Iowa Code section 455A.6(5), which allows the Commission to determine by rule the number of votes required to take action when a quorum is present.

Due to the possibility that the loss of a Commissioner may cause this problem to recur, the Commission wishes to proceed with this amendment on an expedited basis. Pursuant to Iowa Code section 17A.4(2), the Environmental Protection Commission finds for good cause that notice and public participation would be unnecessary, impracticable, or contrary to the public interest.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and this amendment should be effective upon filing with the Administrative Rules Coordinator, as it confers a benefit on a segment of the public. The public is benefited when the Commission can expeditiously take action on matters brought before it as opposed to inaction or delayed action due to voting which results in a stalemate.

This amendment is also published herein under Notice of Intended Action as **ARC 6922B** to allow public comment.

This amendment is intended to implement Iowa Code section 455A.6.

This amendment became effective June 13, 2008.

The following amendment is adopted.

Amend rule 567—1.6(17A,455A) as follows:

567—1.6(17A,455A) Quorum and voting requirements.

1.6(1) Quorum. ~~A majority of the members of the commission~~ Five or more commissioners present at a meeting constitutes a quorum.

1.6(2) Voting.

a. Voting requirements if eight or nine commissioners are currently appointed. The concurrence of a majority of the members of the commission is required to determine any matter before the commission for action, except for a vote to close a meeting which requires the concurrence of two-thirds of the members of the commission, or the concurrence of all members present if less than two-thirds are present. If eight or nine commissioners are currently appointed to the environmental protection commission by the governor, then the affirmative votes of five or more commissioners shall be required to act on any matter within the jurisdiction of the commission.

b. Voting requirements if seven or fewer commissioners are currently appointed. If seven or fewer commissioners are currently appointed to the environmental protection commission by the governor, then the affirmative votes of four or more commissioners shall be required to act on any matter within the jurisdiction of the commission.

c. *Voting requirements to close a meeting.* Notwithstanding paragraph 1.6(2)“a” or 1.6(2)“b,” a vote to close a meeting shall require the concurrence of six or more members of the commission, or the concurrence of all members present if less than six members are present.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/2/08.